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U.S. Citizenship
and Immigration
Services

134



FILE:



Office: VERMONT SERVICE CENTER

Date: **AUG 08 2005**

EAC 03 260 57399

IN RE:

Petitioner:
Beneficiary:



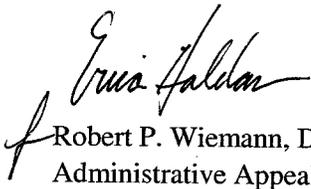
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DECISION: The Acting Service Director, Texas Service Center, denied the employment-based visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed the instant petition seeking to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C). The petitioner is a corporation organized under the laws of the State of New Jersey that is engaged in the import and distribution of foods. The petitioner seeks to employ the beneficiary as a market research analyst.

The director denied the petition concluding that the petitioner had not established the existence of a qualifying relationship between the United States organization and a foreign entity. The director addressed the petitioner's December 22, 2003 letter, in which the petitioner noted that it did not have an organization abroad. The director stated that the petitioner could not be considered "multinational" if it did not conduct business in the United States and one other country.

On the Form I-290B appeal, the petitioner claims a "misunderstanding" in the petition classification on the Form I-140. The petitioner explains that the beneficiary was incorrectly classified as a "multinational executive or manager" on the immigrant petition. The petitioner requests that the beneficiary instead be considered a "skilled worker," and submits a revised Form I-140.

To establish eligibility under section 203(b)(1)(C) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to continue rendering his or her services to the same United States employer or a subsidiary or affiliate thereof in a managerial or executive capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

As the petitioner did not identify on appeal a specific erroneous conclusion of law or statement of fact, the appeal will be summarily dismissed.

The AAO notes that the petitioner's request to amend the petition on appeal is not properly before the AAO. If the petitioner had intended for the beneficiary to be considered a skilled worker, the petitioner should have filed a new Form I-140 requesting the proper classification. An appeal is reserved for issues related to the director's incorrect conclusion of law or statement of fact. *See* 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify

specifically an erroneous conclusion of law or a statement of fact in this proceeding, it has not sustained this burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.